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EXAMINER

HICKS, MICHAEL J

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/990,770
Filing Date: November 21, 2001
Appellant(s): VOS ET AL.

Sean McDermott
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/13/2009 appealing from the Office action mailed 8/14/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Fangzhe Chang & Vijay Karamcheti. "Automatic Configuration and Run-Time Adaptation of Distributed Applications", Pages 11-20, IEEE 2000.

5,884,311

Blattman-Bleile et al.

03-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fangzhe Chang & Vijay Karamcheti. Automatic Configuration and Run-Time Adaptation of Distributed Applications. IEEE 2000. (hereon in Chang et al.)-previously presented- in view of Blattmann-Bleile et al. (U.S. Patent No. 5,884,311).

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As to claims 1, 16, and 31, Chang et al. discloses associating management criteria with the repository (database) to manage repository (database) objects (See Chang et al. page 13, paragraphs 3-6, wherein “management criteria” is interpreted in view of Applicant’s disclosure to be “statistics”, and wherein “associating” is broad language and can simply be interpreted to include “storing”, and wherein “repository” is be read on server and its resources in place of Applicant's database, see complete 103 rejection below);

collection statistics relating to the operation of the repository (database) (See Chang et al. page 14, wherein “QoS metrics” are statistics, also see Chang et al. page 15, paragraph 2); and

determining characteristics of the repository (database) objects based on the collected statistics (See Chang et al. page 16, paragraph 4, also see Chang et al. page 17, paragraphs 1-3);

determining actions to be performed on one or more repository (database) to modify the one or more repository (database) objects based on the management criteria and the determined characteristics of the repository (database) objects (See Chang et al. page 12, paragraph 1);

modifying the one or more repository (database) objects by performing the actions on the repository (database) objects (See Chang et al. page 12, paragraph 3);

monitoring results of modifying the (database) objects (See Chang et al. page 12, paragraph 2); and

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reconfiguring the management criteria associated with the (database) objects based on the results of modifying the (database) objects (See Chang et al. page 11, abstract, also see Chang et al. page 12, paragraph 8).

Chang et al. teaches the claimed invention but does not teach it to be specific to a database or database object. Chang et al. directs his invention to a server and server objects (application resources).

Blattmann-Bleile et al. teaches dynamic reconfiguration of databases by monitoring database objects (See abstract, and see column 5, lines 42-46).

Both Chang et al. and Blattmann-Bleile et al. are from analogous art dealing with monitoring systems, collecting statistics, modifying configurations.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Chang et al. by the teachings of Blattmann-Bleile et al. to include the functionality of management application governing a network server and its resource utilization to a database and database objects because servers can include database and can be themselves considered an organized structured body of data used for storage and retrieval as prevalent in the art.

As to claims 2, 17, and 32, Chang et al. as modified discloses automatically determining a schedule to perform the actions on the database objects, wherein the performing the actions on the database objects comprises performing the actions on the database objects based on the schedule (See Chang et al. page 13, paragraph 10).

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As to claims 3, 18, and 33, Chang et al. as modified discloses wherein the performing the actions on the database objects based on the schedule comprises automatically performing the actions on the database objects based on the schedule (See Chang et al. page 13, paragraph 10).

As to claims 4, 19, and 34, Chang et al. as modified discloses confirming the performing the actions on the database objects (See Chang et al. page 14, paragraph 2, wherein “performing an action” reads on “adaptation” taking place or moving to next execution).

As to claims 6, 21, and 36, Chang et al. as modified discloses wherein the determining the characteristics of the database objects comprises automatically determining the characteristics of the database objects (See Chang et al. page 13, paragraph 4, also see Chang et al. page 13, paragraph 10).

As to claims 8, 23, and 38, Chang et al. as modified discloses wherein the determining the actions to be performed on the database objects based on the characteristics of the database objects comprises automatically determining the actions to be performed on the database objects based on the characteristics of the database objects (See Chang et al. page 17, paragraphs 3-4).

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As to claims 9, 24, and 39, Chang et al. as modified discloses wherein the statistics comprise object-level statistics (See Chang et al. page 14, paragraph 1).

As to claims 10, 25, and 40, Chang et al. as modified discloses wherein the statistics comprise activity-level statistics (See Chang et al. page 14, paragraph 1).

As to claims 12, 27, and 42, Chang et al. as modified discloses wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using one or more policies in the management criteria (See Chang et al. page 14, paragraph 5, also see Chang et al. page 17, paragraph 3).

As to claims 13, 28, and 43, Chang et al. as modified discloses wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using one or more definitions in the management criteria (See Chang et al. page 16, paragraph 4).

As to claims 14, 29, and 44, Chang et al. as modified discloses customizing the one or more definitions in the management criteria (See Chang et al. page 17, section 5.2. wherein “customizing” reads on “interest to the user”).

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As to claims 15, 30, and 45, Chang et al. as modified discloses customizing the one or more policies in the management criteria (See p Chang et al. age 12, paragraph 1, also see Chang et al. page 13, paragraphs 4-6).

(10) Response to Argument

As per Appellants arguments, Section B, concerning the art of Chang, Examiner respectfully disagrees. Examiner notes that Appellants first, second, third, and fifth, arguments as well as the following discussion are rooted in the assertion that "The rejection contends that Chang discloses associating management criteria with a database to manage database objects...". Appellant references this assertion in each of the first, second, third, and fifth arguments as follows: in the Appellants first argument, "Thus, in Chang, there is no disclosure of database objects (or any equivalent entity) or associated management criteria of interest to managing a database as in Assignee's claims, and there is no discussion of resource characteristics of interest to such a database"; in Appellants second argument " Accordingly, Chang fails to disclose or fairly suggest collecting statistics relating to the operation of a database and determining characteristics of interest to a database based on such collected statistics, as called for in Assignee's claims"; in Appellants third argument "The disclosure of Chang at page 12, ¶ 1 and ¶ 3 merely confirms that this is the case and provides no mention of actions related to modifying database objects based on management criteria and characteristics of interest to a database"; in Appellants fifth argument "This is incorrect for the fundamental reason that Chang's disclosure is

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directed to changing the configuration of a distributed application and not to managing a database as noted previously". Examiner contends that this assertion is wholly false. The Final Office Action dated 8/14/2008, plainly states, on Pages 2-3 that the Claims are interpreted such that "management criteria" is interpreted in view of Applicant's disclosure to be "statistics", and wherein "associating" is broad language and can simply be interpreted to include "storing", and **wherein "repository" is be read on server and its resources in place of Applicant's database**, see complete 103 rejection below' (emphasis added), and later on Page 3 that "Chang et al. teaches the claimed invention **but does not teach it to be specific to a database or database object**. Chang et al. directs his invention to a server and server objects (application resources)" (emphasis added). Examiner notes that the art of Blattman-Bleile is relied upon to disclose that such operations occur in database systems. In light of this Examiner notes that Appellants arguments are not directed towards the plain intention of the rejection, and that the rejection contains clear mapping for each limitation of the instant claims to equivalent entities in the art of Chang.

As per Appellants fourth argument found in Section B, Examiner contends that Chang clearly discloses, on Page 12, Paragraph 2 continuous monitoring of the system, and that the results of any changes to the objects of Chang (disclosed, as per the rejection, on Page 16, Paragraph 4, and Page 17, Paragraphs 1-3) will be monitored as part of this continuous monitoring. Examiner further notes that the claim merely states "monitoring results of modifying the database objects" without specifying how the results are monitored, what the results are monitored for, and as such any monitoring of the

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results, including the clearly disclosed continuous monitoring of Chang discloses the claimed limitation.

As per Appellants first, second, and third arguments of section C, Examiner respectfully disagrees. Examiner contends that the rejection clearly states the motivation to combine that "because servers can include database and can be themselves considered an organized structured body of data used for storage and retrieval as prevalent in the art." Examiner strongly asserts that this motivation is correct in that it is common in the art for servers (e.g. search engine servers, company servers, etc.) to include databases. These databases may include, for example, database objects such as tables, indexes, and entries pertaining to website information for search purposes in the case of search engine servers, or tables and entries of employee information in the case of company servers. Examiner notes that these are merely two examples of how databases are integrally included in network servers broadly across the art. As such, Examiner strongly asserts, firstly that combining the arts of Chang and Blattman-Bleile would not result in the methods of Chang being altered such as to render Chang unsatisfactory for its intended purpose as per MPEP 2143.01(V), secondly that combining the arts of Chang and Blattman-Bleile would not change the principle operation of Chang as per MEPE 2143.01(VI), and thirdly, that a clear motivation to combine the arts of Chang and Blattman-Bleile exists in that the proposed combination of Chang and Blattman-Bleile would result in the databases and database objects of Blattman-Bleile included in the network servers of Chang

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undergoing the operations disclosed in Chang as the databases and database objects would be integrally included in the servers. Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), however, in this case, it is clear that the combination of the two references, as above, would allow the database and database objects of Blattman-Bleile located on the server of Chang to take advantage of the benefits of Chang, such as ensuring a desired performance level by adapting themselves to changing resource characteristics (Chang, Page 11, Paragraph 3), and allowing adaptive behaviors (Chang, Page 11, Paragraph 4).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Michael J Hicks/

Examiner, Art Unit 2165

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Conferees:

/Christian P. Chace/

Supervisory Patent Examiner, Art Unit 2165

/John R. Cottingham/

Supervisory Patent Examiner, Art Unit 2167